

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

KEKOA J. K. KRUEGER,)	CIVIL NO. 08-00208 JMS-BMK
#A1018952)	
)	ORDER DISMISSING ACTION
Plaintiff,)	WITHOUT PREJUDICE
)	
vs.)	
)	
FRANCIS SEQUIERA, BENNET)	
DIAZ, UNKNOWN)	
MAINTENANCE OPERATOR,)	
)	
Defendants.)	
_____)	

ORDER DISMISSING ACTION WITHOUT PREJUDICE

On May 7, 2008, Plaintiff Kekoa J.K. Krueger, proceeding pro se, brought this prisoner civil rights action pursuant to 42 U.S.C. § 1983. Thereafter, the court granted Plaintiff's *in forma pauperis* application and notified Plaintiff to inform the court of any change of address, and that failure to file a notice of change of address may result in the dismissal of this action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992).

The last contact Plaintiff made to this court was on May 19, 2008, when he submitted his *in forma pauperis* application. Since September 25, 2008, all documents sent to Plaintiff have been returned as undeliverable. Doc. Nos. 21,

23, 24, 26, & 27. Plaintiff has apparently been released from prison and has abandoned this lawsuit. The court has made several unsuccessful attempts to locate Plaintiff, including contacting prison officials at Plaintiff's last known place of incarceration to determine his last known address, and conducting an internet search to locate a current address for Plaintiff.

On November 6, 2008, the Court issued an Order to Show Cause requiring Plaintiff to show cause, in writing, on or before November 26, 2008, why this action should not be dismissed without prejudice for Plaintiff's failure to prosecute. Plaintiff has not responded.

Balancing the public's interest in expeditious resolution of litigation, the court's need to manage its docket, the risk of prejudice to the defendant, the public policy favoring the disposition of cases on their merits, and the availability of less drastic sanctions, dismissal of this action is appropriate. *See Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000). Plaintiff has failed to

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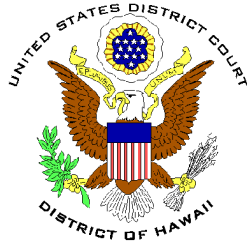
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respond to court orders or to otherwise prosecute this action in any manner for more than six months. This action is DISMISSED without prejudice.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, December 5, 2008.



/s/ J. Michael Seabright

J. Michael Seabright
United States District Judge

Krueger v. Sequeira et al., Civ. No. 08-00208 JMS-BMK; ORDER DISMISSING ACTION WITHOUT PREJUDICE; prose attorneys\DMP\Orders 08\ Krueger 08-208 JMS (DSM fail pros)